

AMENDED IN SENATE AUGUST 8, 2006

AMENDED IN SENATE FEBRUARY 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1209

Introduced by Assembly Member Yee

February 22, 2005

~~An act to amend Section 4604.5 of the Labor Code, relating to workers' compensation. An act to repeal Part 4 (commencing with Section 18000) of Division 7 of the Business and Professions Code, and to add Chapter 2.5 (commencing with Section 13996.5) to Part 4.7 of Division 3 of Title 2 of the Government Code, relating to economic development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1209, as amended, Yee. ~~Workers' compensation: medical treatment utilization schedule~~ Microenterprise development.

Existing law sets forth the duties of the Business, Transportation and Housing Agency in promoting economic development in the state generally.

Existing law encourages various local agencies to access or promote partnerships that invest in microenterprise development, as defined, or include microenterprise development as part of their economic development strategy.

This bill would require the Business, Transportation and Housing Agency to administer a program providing grants on a competitive basis to a qualifying microenterprise development provider or providers, as defined, for capacity building projects, as defined, and

to the extent funds are appropriated for that purpose by the Legislature. It would require the agency, subject to the availability of funds for that purpose, to contract with a nonprofit intermediary for certain services relating to the grant program. It would also make a technical, conforming change.

This bill would appropriate \$5,000,000 from the General Fund to the agency for these purposes, to be allocated according to a specified schedule.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing workers' compensation law requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law requires the Administrative Director of the Division of Workers' Compensation to adopt a medical treatment utilization schedule, containing specified guidelines covering the extent and scope of medical treatment to be provided to an injured employee. Existing law specifies that, notwithstanding the medical treatment utilization schedule or other specified medical practice guidelines, for injuries occurring on and after January 1, 2004, an employee is entitled to no more than 24 chiropractic, 24 occupational therapy, and 24 physical therapy visits per industrial injury, except when an employer authorizes, in writing, additional visits to a health care practitioner for physical medicine services.~~

~~This bill would delete those provisions prescribing the maximum number of chiropractic, occupational therapy, and physical therapy visits an employee is entitled to receive per industrial injury.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Part 4 (commencing with Section 18000) of
- 2 Division 7 of the Business and Professions Code is repealed.
- 3 SEC. 2. Chapter 2.5 (commencing with Section 13996.5) is
- 4 added to Part 4.7 of Division 3 of Title 2 of the Government
- 5 Code, to read:

CHAPTER 2.5. MICROENTERPRISE DEVELOPMENT

13996.5. For the purposes of this chapter, the following definitions shall apply:

(a) “Capacity building” means the ability of an organization to fulfill its mission through a blend of sound management, strong governance, and a persistent rededication to achieving results. Examples of capacity building projects for microenterprise development programs include, but are not limited to, all of the following:

(1) Acquisition of computer hardware, software, and technology skills to better assess and track microentrepreneurial activities, and evaluate and report microenterprise progress and program outcomes.

(2) Computer upgrades and software to ensure effective microloan tracking.

(3) Professional development of trainers and business consultants.

(4) Development of outreach materials to communicate with special populations.

(5) Development of Web sites to facilitate microentrepreneur access to regional business services.

(6) Expansion of staff for program delivery or evaluation, or both, information management, and fund development.

(b) “Low income” means an income at or below 80 percent of the low and moderate-income (LMI) category used by the federal Department of Housing and Urban Development.

(c) (1) “Microenterprise” means a sole proprietorship, partnership, or corporation that meets all of the following requirements:

(A) Has fewer than five employees, including the owner.

(B) Is part time or full time.

(C) Generally lacks access to conventional loans, equity, or other banking services.

(2) Microenterprises are distinct from small businesses or microbusinesses and include, but are not limited to, businesses that provide child development services, businesses that provide landscaping services, businesses that provide building maintenance, businesses that provide personal and business

1 *services, businesses that provide specialty food products, and*
2 *home-based businesses.*

3 *(d) “Microenterprise development provider” means a*
4 *nonprofit or public agency that provides self-employment*
5 *training, technical assistance, and access to microloans to*
6 *individuals seeking to become self-employed or to expand their*
7 *current business.*

8 *13996.6. (a) Every city, county, and city and county is*
9 *encouraged to access microenterprise development in order to*
10 *create new jobs and income opportunities for individuals of low*
11 *and moderate income.*

12 *(b) Every city, county, and city and county is encouraged to*
13 *include microenterprise development as a part of its economic*
14 *development strategy.*

15 *(c) California communities and the public agencies that serve*
16 *them, such as workforce investment boards, community colleges,*
17 *and local economic development agencies, are encouraged to*
18 *promote local partnerships that invest in microenterprise*
19 *development.*

20 *13996.7. (a) The Business, Transportation and Housing*
21 *Agency shall administer a program providing one-time grants on*
22 *a competitive basis to a microenterprise development provider or*
23 *providers qualifying under subdivision (c), for capacity building*
24 *projects, as described in subdivision (a) of Section 13996.5.*

25 *(b) (1) Each grant provided pursuant to this section shall*
26 *cover a two year period, in an amount totalling a minimum of*
27 *fifty thousand dollars (\$50,000) for each year, but not to exceed*
28 *a total of one hundred thousand dollars (\$100,000) for each*
29 *year.*

30 *(2) No less than 40 percent of the funds available for purposes*
31 *of this section shall be granted to a qualifying microenterprise*
32 *development provider or providers serving rural communities.*

33 *(c) In order to qualify for a grant pursuant to this section, a*
34 *microenterprise development provider shall meet all of the*
35 *following criteria:*

36 *(1) It shall be a nonprofit corporation qualifying for tax*
37 *exempt status under Section 501(c)(3) of the Internal Revenue*
38 *Code.*

39 *(2) It shall deliver, or propose to deliver, microenterprise*
40 *development services to low and moderate income individuals*

1 *starting or operating microenterprises in the state. At least 50*
2 *percent of the provider's clients shall be low income.*

3 *(3) It shall deliver microenterprise development services such*
4 *as entrepreneur training, technical assistance toward the*
5 *preparation of a business plan for operation of a business or*
6 *supporting the successful repayment of a business loan, loan*
7 *packaging, entrepreneurial support services such as business*
8 *networks and mentoring, or microlending.*

9 *(4) Its program shall have been in operation for at least two*
10 *years and serving a minimum of 100 microentrepreneurs or*
11 *prospective microentrepreneurs per year.*

12 *(5) It shall demonstrate that its proposal will increase its*
13 *organizational capacity to serve at least 20 percent more*
14 *individuals per year over the next five years.*

15 *(d) Subject to the availability of funds for that purpose, the*
16 *agency shall award a competitive contract to a nonprofit*
17 *intermediary to conduct microenterprise practitioner training*
18 *and provide technical assistance to support the capacity building*
19 *projects of the grantees under this section. Training shall include*
20 *training in the best practices of microenterprise development,*
21 *such as entrepreneur training and microlending.*

22 *(e) Grants shall be provided pursuant to this section to the*
23 *extent that funding is appropriated for that purpose by the*
24 *Legislature.*

25 *(f) The agency shall pay its administrative costs under this*
26 *section from existing resources.*

27 *SEC. 3. The sum of five million dollars (\$5,000,000) is hereby*
28 *appropriated without regard to fiscal years from the General*
29 *Fund to the Business, Transportation and Housing Agency for*
30 *purposes of the grant program, established pursuant to Section*
31 *13996.7 of the Government Code, as added by Section 2 of this*
32 *act, to be allocated as follows:*

33 *(a) Four million five hundred thousand dollars (\$4,500,000)*
34 *for grants provided under that section.*

35 *(b) Five hundred thousand dollars (\$500,000) for a two-year*
36 *contract with a nonprofit intermediary pursuant to subdivision*
37 *(d) of that section.*

38 *SEC. 4. This act is an urgency statute necessary for the*
39 *immediate preservation of the public peace, health, or safety*

1 *within the meaning of Article IV of the Constitution and shall go*
2 *into immediate effect. The facts constituting the necessity are:*

3 *On order that needed funds may be made available to promote*
4 *microenterprise development activities in the state at the earliest*
5 *possible time, it is necessary for this act to take effect*
6 *immediately.*

7 SECTION 1. ~~Section 4604.5 of the Labor Code is amended to~~
8 ~~read:~~

9 ~~4604.5. (a) Upon adoption by the administrative director of a~~
10 ~~medical treatment utilization schedule pursuant to Section~~
11 ~~5307.27, the recommended guidelines set forth in the schedule~~
12 ~~shall be presumptively correct on the issue of extent and scope of~~
13 ~~medical treatment. The presumption is rebuttable and may be~~
14 ~~controverted by a preponderance of the scientific medical~~
15 ~~evidence establishing that a variance from the guidelines is~~
16 ~~reasonably required to cure or relieve the injured worker from the~~
17 ~~effects of his or her injury. The presumption created is one~~
18 ~~affecting the burden of proof.~~

19 ~~(b) The recommended guidelines set forth in the schedule~~
20 ~~adopted pursuant to subdivision (a) shall reflect practices that are~~
21 ~~evidence and scientifically based, nationally recognized, and~~
22 ~~peer-reviewed. The guidelines shall be designed to assist~~
23 ~~providers by offering an analytical framework for the evaluation~~
24 ~~and treatment of injured workers, and shall constitute care in~~
25 ~~accordance with Section 4600 for all injured workers diagnosed~~
26 ~~with industrial conditions.~~

27 ~~(c) Three months after the publication date of the updated~~
28 ~~American College of Occupational and Environmental~~
29 ~~Medicine's Occupational Medicine Practice Guidelines, and~~
30 ~~continuing until the effective date of a medical treatment~~
31 ~~utilization schedule, pursuant to Section 5307.27, the~~
32 ~~recommended guidelines set forth in the American College of~~
33 ~~Occupational and Environmental Medicine's Occupational~~
34 ~~Medicine Practice Guidelines shall be presumptively correct on~~
35 ~~the issue of extent and scope of medical treatment, regardless of~~
36 ~~date of injury. The presumption is rebuttable and may be~~
37 ~~controverted by a preponderance of the evidence establishing that~~
38 ~~a variance from the guidelines is reasonably required to cure and~~
39 ~~relieve the employee from the effects of his or her injury, in~~

1 ~~accordance with Section 4600. The presumption created is one~~
2 ~~affecting the burden of proof.~~
3 ~~(d) For all injuries not covered by the American College of~~
4 ~~Occupational and Environmental Medicine's Occupational~~
5 ~~Medicine Practice Guidelines or official utilization schedule after~~
6 ~~adoption pursuant to Section 5307.27, authorized treatment shall~~
7 ~~be in accordance with other evidence-based medical treatment~~
8 ~~guidelines generally recognized by the national medical~~
9 ~~community and that are scientifically based.~~

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